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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,919	01/13/2006	Detlef Muller	01013.0327.PCUS00	5671
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HOWREY LLP C/O IP DOCKETING DEPARTMENT 2941 FAIRVIEW PARK DR., SUITE 200 FALLS CHURCH, VA 22042			EXAMINER LE, MARK T	
			ART UNIT	PAPER NUMBER
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			10/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/538,919	Applicant(s) MULLER ET AL.	
	Examiner Mark T. Le	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16, 19 is/are rejected.
- 7) ☒ Claim(s) 15, 17 and 20 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the rubber-metal elements arranged in lateral direction only, as recited in instant claim 7, must be shown or the feature must be canceled from the claim. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. Claims 15 and 17 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative

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only. See MPEP § 608.01(n). Accordingly, the claims 15 and 17 have not been further treated on the merits.

3. Claims 11-12, 14 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 11, it is not clear as to whether the instant claimed two coil springs are the further limit of the at least one vertically arranged coil spring recited in instant claim 10.

In claim 12, it is not clear as to whether the instant claimed "a lateral guidance element" refers to the same lateral guidance element recited in instant claim 1.

In claim 14, it is not clear as to the claim from which claim 14 depends.

In claim 16, the expression "the requirements of a particular application of the bogie" is indefinite because it is not clear as to what are the requirements that are being referred to.

4. Since the limitation of claim 14 cannot be determined, claim 14 cannot be further treated on the merits.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 10 and 16 (16 as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese reference 3-258656.

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The Japanese reference, Figures 1-2, shows a wheel set guidance assembly having all the features as recited in the instant claims, including bearing 4, vertical guidance element 10, lateral guidance element 5, and a longitudinal guidance element in the form of linkage bar 11.

Regarding the instant claimed steps in the method claim 16, the method of providing the structure of the Japanese reference inherently requires the method steps as recited in claim 16.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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8. Claims 5-11 and 19 (11 as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese reference 3-258656 in view of Briggs (US 4,109,586).

The Japanese reference is applied above.

Regarding the instant claimed spring element engaging a guidance pin, consider the spring units of Briggs, each of which includes a combination of coil spring 16 and metal/rubber spring 17 engaging guidance pin 17A. In view of Briggs, it would have been obvious to one skilled in the art use spring units, similar to that taught by Briggs, in the places of the springs in the structure of the Japanese reference, i.e. the vertical, lateral and longitudinal springs, so as to achieve the enhanced spring characteristics thereof.

Regarding instant claim 7, note that the lateral spring of the Japanese reference, as modified, includes a metal/rubber spring similar to spring 17 of Briggs that is oriented laterally in the structure of the Japanese reference, as modified.

It is noted that in the structure of the Japanese reference, as modified, the metal/rubber lateral spring would have one end mounted on one of the bearing assembly and the bogie frame, and the other end associated with the guidance pin mounted on the other one of the bearing assembly and the bogie frame. With respect to claims 8 and 9, since it is not critical as to whether the one end or the other end of the metal/rubber spring associated with the guidance pin is mounted on the one or the other one of the bearing assembly and the bogie frame, it would have been obvious to one skilled in the art to mount the metal/rubber spring and the associated guidance pin of

the Japanese reference, as modified, to the bearing assembly and bogie frame, in any desired order or reversed order, that is deemed to be convenient so as to achieve the same expected performance thereof.

Regarding the instant claimed vertical guidance having two coil springs, as recited in instant claim 11, consider the structure of Briggs wherein two vertical coils springs are used for vertical guidance. In view of Briggs, it would have been obvious to one skilled in the art to use two vertical coils springs, similar to that taught by Briggs, in the structure Japanese reference so as to achieve a higher load capacity and provide a balanced vertical support.

9. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vogel (US 5,909,711) in view of Japanese reference 3-258656.

Vogel discloses a wheel set guidance assembly similar to that recited in the instant claims, including vertical guidance member 4, and a longitudinal guidance member in the form of guide bar 10. It is noted that Vogel does not show a lateral guidance member.

The Japanese reference, Figures 1-2, shows a wheel set guidance assembly, including lateral guidance element 5. In view of the Japanese reference, it would have been obvious to one skilled in the art to further provide a lateral guidance element, similar to that taught in the Japanese reference, so as enhance guidance of the wheel unit in the lateral direction.

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10. Claims 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese reference 3-258656 in view of Briggs (US 4,109,586) and Vogel (US 5,909,711).

The Japanese reference and Briggs are combined as above.

Regarding the instant claimed longitudinal linkage bar, recited in instant claim 13, note linkage bar 10 connected to the center bogie console, as shown in Figure 1 of Vogel. In view of Vogel, it would have been obvious to one skilled in the art modify the structure of the Japanese reference to include linkage bars, similar to that taught by Vogel, so as to allow the wheel units to steer in an advantageous manner similar to that taught by Vogel.

11. Claim 12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.


12. Claim 20 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Le whose telephone number is 571-272-6682. The examiner can normally be reached on Mon-Fri, between 8:15-4:45 (teleworking).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Mark Tuan Le
Primary Examiner
Art Unit 3617

mle
10/23/07